# THE DEFENCE

MADE BY

## *John Ambrose*, Esq;

Late CAPTAIN of His

MAJESTY's SHIP

THE

# *RUPERT*,

On his Trial at the COURT-MARTIAL, holden on Board the *London*, at *Chatham-Dock*, *September* 23d, continued by several Adjournments, and still sitting.

Faithfully taken, as it was delivered by the Captain on *Monday* the Fourth Day of *November*, 1745.

Together with the SENTENCE that was passed on him by the COURT-MARTIAL.

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*By a* GENTLEMAN *of the* Inner-Temple.

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*DUBLIN:*

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# PREFACE.

CURIOSITY induced me to attend Capt. Ambroſe's Trial, and common Juſtice obliges me to make his Defence publick: That Gentleman had done very conſiderable Service to our Trade, and I was not a little ſurpriſed, when I heard the very Man, whoſe Exploits were the pleaſing Topics of our Merchants, whoſe Bravery had gained him the Eſteem of his Fellow Subjects, arraigned of, and branded by the Public with Cowardice. Theſe contraſted Characters in one and the ſame Man, made me reſolve on attending the Court-Martial when his Trial ſhould come on, that I might be able from what would appear by the Evidence on either Side, to fix my Judgment, and either clear or condemn him in my own private Opinion.

I took not his Trial, tho' I believe not a Word eſcaped my Notice: I was more curious to bring away with me what he offered in his Defence; and I may with great Truth aver, that I have done it faithfully; as I alſo did the Sentence of the Court.

It cannot be ſuppoſed, that I ſhould offer my own private Sentiments to the Public; or ſay any thing either for or againſt what I now publiſh; or that I would alter a Tittle in it. I have given the whole in the Order and very Words he delivered it, though the good-natured Part of the World will allow me to ſay, that if either the Method or Stile is not altogether correct, that we

*ought to conſider the Situation he was in, the Number of Witneſſes examined againſt him (I think fifty-four), and that above twenty Months have elapſed, ſince the Time of the Engagement, which may have occaſioned the Doubts and Contradictions he takes Notice of, and muſt have given him ſome Trouble to obſerve upon in the manner he has. I believe every Man in his Circumſtances, his Life and Reputation at Stake, will be more anxious to ſave the one and clear the other, than curious in his Periods.*

*As I was a Witneſs of his Behaviour during the whole Courſe of his Trial, I may be permitted to ſay, he paid a Deference and Reſpect to the Court, yet did not ſeem to court their Favour; he betrayed neither Preſumption nor Timidity, and ſeemed, to me, Maſter of his Reaſon. I ſhall only add, that what is quoted in the Defence is actual, and ſupported by the Evidence on either Side.*

*SIR*,

I Am now to anſwer the Charge which has been brought againſt me into this honourable Court: I intend to do this by ſpeaking to the Articles as they ſtand in that Charge, and with as much brevity as poſſible.

The Charge conſiſts of Five Articles.

By the *Firſt*, I am accuſed of having kept back from the Fight; with lying to Windward out of my Station, and out of Point-blank, during all or the greater part of the Engagement; and with having uſed no Endeavours to engage the Enemy.

By the *Second*, I am aceuſed of having fired 200, at leaſt 100 Shot, when I was out of Reach of the Enemy on a Point-blank, and many of them which could not reach at Random.

By the *Third*, I am charged with Neglect of Duty, in not cloſing the Line when the *Dorſetſhire* and *Eſſex* kept to Windward; and of with-holding my Aſſiſtance from the *Namur* and *Marlborough*, though capable of affording it to them.

By the *Fourth*, I am accuſed of not having covered and conducted the *Ann-Galley* Fireſhip, when the Signal was made by Admiral *Matthews* for her bearing down upon the *Real*; by which Neglect of my Duty, altho' I was not at that Time engaged, the ſaid Fireſhip was deſtroyed, without doing any Execution upon the Enemy.

As to the *Fifth Article*, I apprehend it is the common General Article.

To the *Firſt Article*, I may juſtly affirm, That upon ſeeing the Admiral's Signal I immediately obeyed it, by getting into my Station in the Line, and continuing there, or rather to Leeward of it; but never to Windward, at any Time during the Engagement:----That I was warmly engaged, firſt with five of the Enemy's Ships in the Rear, within half Gun-ſhot; and afterwards, when the Admiral called me off from that Engagement, I, in Conjunction with him, engaged the *Real*, the *Hercules* her Second, and the abovementioned five Ships, which had joined their Admiral, until it was dark.-------By my Station in the Line of Battle, I was to be a-head of Admiral *Matthews* on the Starboard Tack; but ſeeing him in danger of being cut to Pieces, I

went

went immediately to his Aſſiſtance, and was the ſecond Ship a-ſtern of him; which will ſhew I neither kept back, nor feared the Enemy's Shot.

I admit, that when the *Namur* and *Marlborough* firſt began the Engagement, I was out of Point-blank: But ſurely this cannot be imputed to me as a Crime, ſince it was intirely owing to my being then in the Station appointed for me in the Line of Battle; and to its being impoſſible for me to approach nearer the two Ships of the Enemy, *viz.* the *Real* and her Second, which were a-head, without breaking the Line, and putting the *Rupert* between two Fires; either of which I humbly apprehend to be very inconſiſtent with my Duty to have done: And the five Ships of the Enemy, which were then about the Diſtance of four or five Miles on my Starboard Quarter, not having come up to cloſe their Line, I could not then get at, without coming to my Starboard Tack, turning my Stern to my Admiral, and running away from him. This was then my Situation, and this made me an unhappy Spectator for near three Quarters of an Hour, before I could get at the headmoſt of the ſaid five Ships, which were coming up a-ſtern.

To the *Second Article*, I take Leave to ſay, that I did not fire a ſingle Shot when the *Namur* and *Marlborough* engaged the Enemy, being ſenſible it would do no Execution: And altho' I am charged with firing upon the Enemy when out of Point-blank, yet this is intirely groundleſs, according to what I have ſaid under the foregoing Article; and will, I truſt, appear to be ſo by the Evidence to be given to this Court.

I may truly affirm, that I ordered a Gun from each Deck to be fired with Round Shot, that I might thereby know whether I could reach the Enemy; though at the ſame time theirs went far beyond me, and did me conſiderable Damages. My Guns were loaded with Round and Grape, becauſe I did not intend to fire till I got cloſe on board of them; but finding their Shot to tear my Sails, and cut my rigging, and that they began to edge away from me; and finding alſo that five of my Mizen Shrouds were ſhot away, and fearing that my Maſts might be brought by the Board, before it might be poſſible for me to get within a proper Diſtance for Grape Shot, I order'd my Officers to cauſe them to be drawn, and the Guns to be loaded with Double Round, that ſo we might have an equal Chance with our Enemies; but finding, by that Experiment of a Shot from each Deck, that we were not near enough to do proper Execution, (tho' ſome

ſome of my People, by miſtaking my Orders, or rather Raſhneſs, which is not an uncommon thing upon ſuch Occaſions, fired a few Guns irregularly) yet I cauſed them immediately to forbear, and endeavour'd to near the Enemy. In ſome time after, I directed another Shot to be fired from each Deck, and perceiving thereby that we were then within Point-blank, I began to engage the Enemy, and continued to do all in my Power to get nigher to them, yawing the Ship, and ordering the Helm to be put hard up, ſometimes the one Way, and ſometimes the other, by which Means both my Broadſides were brought to bear; and this, I humbly preſume, will convince every Seaman, that I was then in the moſt advantageous Place or Station for attacking the Enemy, as they came up; that I was far enough to Leeward as well with regard to the *Real*, as to the ſaid five Ships, and if they did not bear away they muſt have fetch'd on Board of me; to which I need only add, under this Article, that I continued the Engagement 'till I was called off by my Admiral's Signal, and that my Precaution of trying my Diſtance from the Enemy, by Guns fired from each Deck, was the beſt Means to be ſure of it, and I hope will appear to be a very ſtrong Indication of my Intention, to pay a full Regard to his Majeſty's fighting Inſtructions.

To the *Third Article*: I humbly ſubmit to this Court, whether what I have ſaid in Anſwer to the firſt Article is not alſo a full Anſwer to this; but it may not be amiſs to add, that I was actually engaged with the five Ships in the Enemy's Rear, at the Time the *Marlborough*'s Maſts fell, conſequently doing my Duty, and particularly by hindering thoſe Ships from joining their Admiral as ſoon as otherwiſe they might have done, to the further Diſadvantage of the *Namur* and *Marlborough*.

I ſhould now, Sir, proceed to Anſwer to the *Fourth Article* of the Charge, wherein I am accuſed of not covering and conducting the Fireſhip, when ſhe was bearing down to the *Real*: But as this is a Point of ſome Nicety, I beg firſt to know the Opinion of this Court, whether it was really my Duty to have ſo much as attempted the Performance of that Service, without ſpecial Orders for it from my Admiral, either by Signal, or otherwiſe; and I am the more deſirous to have the Judgment of the Court upon this Matter, before I enter into any Defence relating to it: Becauſe it is a Thing which does not only concern me, though I can very well Anſwer to it, but indeed it may affect every Captain, who now is, or may hereafter be in the Navy, and have the Miſ-

fortune

fortune to be called to Account for his Conduct in the Manner I have been.*

To the *Fifth Article*, it may be ſufficient for me to ſay, it is intirely groundleſs, ſince I can aſſert, with the greateſt Regard to Truth, that on the Day of the Action I did not either diſobey any Inſtructions of his Majeſty, or any Signal or Command of my Admiral, or neglect any Part of the naval military Diſcipline, or was guilty of any Breach of Duty whatever; and conſequently, that I was ſo far from being one of the principal Cauſes of the Miſcarriage of his Majeſty's Fleet, that I was not, in the leaſt Degree, any Cauſe of it at all.

Thus, Sir, I have laid before this Honourable Court, all I have thought neceſſary to trouble you with, in Defence of myſelf againſt ſo heavy a Charge, as hath been produced againſt me; and if what I have ſaid ſhall be ſufficiently ſupported by the Evidence which ſhall be given for that Purpoſe, I make no doubt, but on the contrary am fully perſuaded, you will find it reaſonable and juſt to acquit me with Honour.

I muſt beg Leave to own, that though I have had a very ſtrong Inclination to make a few Obſervations upon my Services before the Day abovementioned; thoſe after it, and the Approbations which I have had the Honour to receive of them, as well as upon the Dignity of the Command I was lately veſted with; the Proſpects of Honour and Fortune, that Command afforded me; the Manner in which I was ſtripped of it, and the real Hardſhips I have ſince undergone: Yet, Sir, I have got the better of myſelf in thoſe Particulars, and in reſpect to the Court will treſpaſs no farther on your Patience, but carefully ſubmit the Juſtice of my Cauſe to your Determination.

* To this it was anſwered by the Court, they would conſider of it in their Debates.

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*Captain* Ambroſe's *farther Defence, and Obſervations upon the Evidence given in, both for the Crown and on his own Behalf.*

SIR,

HAVING obſerved, that all the Witneſſes againſt me, have been examin'd whether I could go and aſſiſt the *Marlborough*:

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It makes it neceſſary for me to give ſome Anſwer to that Point, therefore I muſt beg Leave to take Notice of the eleventh Article of War, which is as follows, *viz.*

11th. 'Every Captain, Commander, and other Officer, 'Seaman, or Soldier, of any Ship, Frigate, or Veſſel of 'War, ſhall duly obſerve the Command of the Admiral, or 'other his ſuperior Commander, of any Squadron, as well 'for the aſſailing or ſetting upon any Fleet, Squadron or 'Ships of the Enemy, Pirate or Rebels, or joining Battle 'with them, or making Defence againſt them, as all other 'the Commands of the Admiral, or other his ſuperior Com-'mander, upon Pain to ſuffer Death, or other Puniſhment, 'as the Quality of his Neglect or Offence ſhall deſerve.'

And I muſt alſo beg Leave to take Notice of the thirteenth Article of the Fighting Inſtructions, which is as follows, *viz.*

13th. 'As ſoon as the Admiral ſhall hoiſt a red Flag at the 'Staff at the Foretopmaſt-Head, and fire a Gun, every Ship 'in the Fleet is to uſe their utmoſt Endeavour to engage the 'Enemy, in the Order the Admiral has preſcribed to them.'

To which Admiral *Mathews* has added this Inſtruction of his own, *viz.*

'And ſtrictly to take care not to fire before the Signal be 'given by the Admiral.

And alſo the twenty-ſecond and twenty-third Articles, which are as follow, *viz.*

22d. 'If any of the Ships in the Fleet are in Diſtreſs, and 'make the Signal, which is a Weſt with the Jack or Enſign, 'the next Ship to them is ſtrictly required to relieve them.'

23d. 'If the Admiral, or any Flag-Ship, ſhould be in 'Diſtreſs, and make the uſual Signal, the Ships in the Fleet 'are to endeavour to get as cloſe up into the Line between 'him and the Enemy as they can, having always an Eye to 'defend him if the Enemy ſhould come to annoy him in 'that Condition.'

The Station that was preſcribed to me by the Admiral, was, the third Ship aſtern of the *Marlborough*; and if ſhe had been in Diſtreſs, and made the Signal with the Jack or Enſign, the *Dorſetſhire* and *Norfolk*, by the 22d Article, were the Ships, and the only Ships, that ought to have relieved her, one being the next Ship ahead, and the other aſtern of her; and this will be ſtill more evident, when it is conſidered, that the 23d Article ſays, That if the Flag ſhould be in Diſtreſs, and make the uſual Signal, the Ships in the Fleet are to get cloſe up

into a Line between him and the Enemy; which plainly ſhews the Diſtinction, that a Flag in Diſtreſs is to be aſſiſted by the whole Fleet; and that a private Ship is only to be aſſiſted by the next Ship to her; and therefore, tho' ſhe had made a Signal of Diſtreſs, I apprehend it was not my Duty to leave my Station to go up to her, eſpecially as there were two Ships ahead, and two aſtern, all nearer to her than I was; and it may be proper to obſerve, that the Admiral ſent Orders to the *Dorſetſhire* to go to the aſſiſtance of the *Marlborough*, which ſhe did accordingly; and if he had thought it neceſſary for any other Ship, or ſhips, to do the like, he would, no doubt, have given his Orders for it; and I could not have done it, without breaking the 13th Article of the Fighting Inſtructions, by leaving the Station preſcribed by the Admiral, in his Line of Battle.

The Admiral, and *Marlborough*, began to engage at one o'Clock, and before two had beat down, cut, and tore to Pieces, the *Real*'s Yards, Rigging, and Sails; ſo that I thought, as every Body elſe then did, that the *Real* and *Hercules* muſt have fallen in very ſhort Time; and if I had gone to them, inſtead of engaging the two headmoſt of the five *Spaniards* that were coming up aſtern, as I did, the whole Fleet would have juſtly ſaid I acted like a Coward, by going out of my Station, where there were four to two, and have avoided the Enemy's Ships, that were coming up to their Admiral unmoleſted; and they might have likewiſe ſaid there were five great Boys taking the Bread and Butter of a little one, as was ſaid by the late Lord *Torrington* of a Captain in the Year 1718, which, I believe, is ſtill freſh in the Minds of ſome of the Members of this Court.

I had no Notice of her being in Diſtreſs till her Maſts fell, ſhe never making any Signal for that Purpoſe; and both before, at the Time, and after her Maſts fell, I was engaged with the headmoſt of the five *Spaniſh* Ships, which were coming up to the Aſſiſtance of their Admiral; which plainly ſhews, that after I had any Notice of her Diſtreſs, it was out of my Power, if it had been my Duty, to go up to her Aſſiſtance.

As to the Fireſhip, I had not any Orders or Directions to cover her; and humbly Apprehend, that it was in no wiſe my Duty to do it without; nor did I know any thing of her, till I ſaw her coming down, at which Time I was engaged, as I have already ſaid, with the headmoſt of the five *Spaniſh* Ships, that were making towards her, with all the Sail they could crowd; and had I been directed to cover her, could not have done it more effectually, than by continuing my

Engagement

Engagement with thoſe Ships, which, by that Means were prevented from getting near enough to her, for their Shot to reach her; and ſo ſhe had Time ſufficient given her, in reſpect of thoſe Ships, for doing her Buſineſs.

As I have been induced to think it neceſſary for me to ſay ſomething more than I have done, to the 23d Article of the Charge exhibited againſt me, in what relates to my not cloſing the Line with the *Marlborough*, upon the Failure of the *Dorſetſhire* and *Eſſex* of falling into their reſpective Stations; and as this Charge ſtands founded upon the 24th Article of the Fighting Inſtructions, I muſt beg Leave to recite that Article, Word for Word, in order to ſhew that the Charge cannot be ſupported, either by the Letter, or by any natural Conſtruction, of the ſaid 24th Article, which is this, *viz.*

24th. 'No Ship in the Fleet ſhall leave his Station upon 'any Pretence whatſoever, till he has acquainted his Flag, 'or the next Flag Officer to him, with the Condition of his 'Ship, and received his Directions therein; but in caſe any 'Ship ſhall ſo do, the next Ships are to cloſe up the Line; and 'if any Commander ſhall be wanting in doing his Duty, his 'Flag, or the next Flag Officer to him, is immediately to 'ſend for the ſaid Commander from his Ship, and appoint a-'nother in his Room.'

Now, Sir, I muſt beg Leave humbly to inſiſt, that the ſaid Article could only be intended as an Inſtruction how Ships diſabled in Fight ſhould govern themſelves, with regard to *leaving their Stations after their being diſabled*, and what other Ships ſhould thereupon do, in order to cloſe up the Line, in that Caſe, otherwiſe the Words *Condition of the Ship* would not have been mentioned: If this be a fair Conſtruction of the Meaning of the Article, as I humbly conclude it is, and there was not any Ship diſabled between the *Rupert* and the *Marlborough*, as indiſputably there was not; then, Sir, it muſt neceſſarily follow, that I was in no wiſe obliged by that Article to cloſe the Line with the *Marlborough*, and conſequently that it was not my Duty to have done it.

This Argument, Sir, I hope, will appear worthy of the Court's Attention; and, when duly conſidered, to be of Weight and Force enough with them, to acquit me of any Breach of the abovementioned 24th Article of the Fighting Inſtructions, which has been lain to my Charge; but, however, it may not be amiſs for me to obſerve, and to put the Matter beyond all Diſpute, that the *Dorſetſhire* and *Eſſex* were the two Ships ſtationed between the *Rupert* and *Marl-*

*borough*; that the Admiral ſent Orders to the *Dorſetſhire* to go to the Aſſiſtance of the *Marlborough*; and that he would unqueſtionably have done the ſame with regard to the *Eſſex*, had he judged it right; and if thoſe Captains had not done their Duty, he would have put the latter Part of the ſaid Article in Execution, and immediately ſend other Captains to command their Ships.

Had I broke my Line at firſt, and gone to the Aſſiſtance of the *Marlborough* when ſhe wanted none, the *Namure* and ſhe engaged with the *Real*, and the *Dorſetſhire* and *Eſſex* that Inſtant engaged with the *Hercules*, ſhould I not deſerve to be brought to a Court-Marſhal for ſuch Behaviour, as I humbly conceive it would be contrary to all military Diſcipline, eſpecially when there was an Enemy ſo near, proper for me to engage with? According to my Station, the headmoſt of which Ships I actually engaged, and forced to bear away from the *Marlborough*, and Fireſhip, and before the *Namur* had drawn off from the *Real* and *Marlborough*, I was got into the Tract of five Ships of the Enemy, that were coming up to the Aſſiſtance of their Admiral, and the headmoſt of them was firing at me.

What I have now ſaid, with regard to not leaving my Station, has been ſtrictly obſerved by great and experienced Officers, in former Times; for, at the Battle of *Malaga*, Sir *George Rooke*, then Commander in chief, and his Diviſion, was very hard preſſed; and tho' Sir *Cloudſly Shovel* ſaw his Condition, he judged it not adviſeable to leave his Station without a Signal, or particular Orders for that Purpoſe; but ſent Sir *John Norris*, then Captain of the *Orford*, his Second, in his Boat, to know if the Admiral would give him Leave to go to his Aſſiſtance; but the Anſwer was, he muſt keep his Station: Which is a plain Indication, that no Ship can leave her Station, to go to the Aſſiſtance of another, without the proper Signal, or Orders for that Purpoſe, tho' many Ships may, at that Time, lie in their Stations inactive; and my Caſe is ſtill ſtronger than this, for I had neither Signal nor Orders, and was engaged myſelf.

If the Witneſſes that I have produced to this Court, which are the chief Officers, oldeſt, and beſt Seamen in the Ship, are not ſufficient to make plainly appear a Captain's Conduct and Behaviour, when is Honour is called in Queſtion, where is the Captain, however brave and innocent, who is not liable to be undone; when, thro' Pique or Malice, or the hidden Views of his Enemies, he is loaded with Infamy, and called to an Account, in the Manner I have been.

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Had I behaved in that ſcandalous Manner, that I have been repreſented to this Honourable Court, moſt certainly Vice-Admiral *Leſtock* is too penetrating an Officer to let my Behaviour eſcape his Obſervation; and would certainly have fired a Shot at the *Rupert*, to put me in mind of my Duty, the ſame Time he did at the *Dunkirk* and *Cambridge*; and, without Doubt, would have ſent a Letter of Complaint to Admiral *Mathews*, for ſuch a notorious Breach of my Duty, at the ſame Time he did againſt Captains *Purvis* and *Drummond*. But, on the contrary, my Behaviour that Day was thought of ſo well, that, in a few Days after, I was ſent with a Command of ſixteen Sail of his Majeſty's Ships to *Villa Franca*, to aſſiſt the King of *Sardinia*, on the Enemy's attacking that Place: And I hope, without the leaſt Tincture of Vanity, I may aſſert, that through my Vigilance I ſaved his whole Army, by landing a Detatchment of the Marines and Troops from on board each Ship; and placing the Ships in ſuch manner, that I ſecured the Paſſes, and covered the Retreat of his Army.

I acknowledge my Services were no more than what my Duty exacted; but this Honourable Court will permit me to ſay, that they were ſuch as his *Sardinian* Majeſty condeſcended to take notice of, and admit they were for the Public Good: I received a Preſent from his Majeſty, worthy ſo great a Monarch. And, as a farther Proof of his being ſatisfied with my Conduct, he gave, even after my Diſgrace, poſitive Orders to his Miniſter at the *Britiſh* Court to recommend me to the King my Maſter, as worthy both of Rewards and Favour; an Honour, of which I declined taking any Advantage, until my Conduct had been publickly, legally, and minutely examined into, that my Enemies might have no Opportunity to tax me with any Endeavours to avoid a fair and open Trial, by ſheltering myſelf under his *Sardinian* Majeſty's favourable Opinion.

I have had the Honour of Twenty-two different Commands in the *Mediterranean*.

Firſt, from Admiral *Leſtock*; next, from Admiral *Matthews*; and laſtly, from Admiral *Rowley*. I had not the Pleaſure of being known to any of thoſe Gentlemen, till I came under their Command; and have the Satisfaction to think, that my Conduct and Proceedings were always agreeable to them.

Admiral *Rowley* ſent me to command on the *Gibraltar* Station, with a Squadron of Ships, where I was abſent from him ſix Months: And on his judging proper to proceed to

that

that Station himſelf, with the reſt of the Fleet, he detatched me, with a ſtrong Squadron of his Majeſty's Ships, to command on the Coaſt of *Italy* and *Riviere* of *Genoa*; where I had nothing more at Heart than the Glory of my Maſter's Arms, and the Good of the Common Cauſe: And, after a ſucceſsful Command of three Months, was made a Priſoner at the Head of that Command the Firſt of *June*, kept ſince a cloſe Priſoner, and brought here an unhappy Spectacle, as you now ſee me.

As you, Sir, have been a Witneſs of my former Behaviour, having had the Honour to ſerve under your Command, my ſaying any thing farther to my Character may be thought altogether unneceſſary: But as I have more than Life at Stake, my Reputation, allow me to ſay it is a ſenſible Pleaſure to me, that I can look back into my Conduct, and be able to aver, that from the Time I had the Honour of his Majeſty's firſt Commiſſion, till this Accuſation againſt me, I never had any Blemiſh upon my Character, or Reflection upon my Conduct. When I bore away for the five Ships of the Enemy, the *Real* was ſo diſabled, that it was the Opinion of all my Officers, as well as myſelf, that, as ſure as there was a God in Heaven, ſhe would fall in half an Hour; and I thought I could not do a more commendable Service to my King and Country, than by the Engaging thoſe five Ships; and, if I had been well ſeconded by the Rear-Diviſion, they muſt inevitably have fallen into our Hands.

It is a Misfortune to me, that I cannot be allowed the Benefit of the Teſtimony of my Admirals; but, on the other Hand, it is my great Happineſs that my Cauſe is before Gentlemen of your Juſtice, and Experience in Naval Affairs.

Sir, A great Number of Witneſſes have been examined againſt me; and I connot doubt but the Juſtice of the Court will thoroughly weigh the Evidence they have given, and determine accordingly on its Validity, as I cannot in the leaſt doubt their Vigilance, having let nothing eſſential eſcape their Notice; and that their Judgement will make proper Diſtinctions and Obſervations.

To ſupport the Firſt Article, many have ſworn the *Rupert* out of the Line; and * one in particular ſwears her a Mile and a half to Windward of the *Namur* which muſt have been half a Mile to Windward of the *Winchelſea*.

The Court, I am ſatisfied, in diſcuſſing the ſeveral Evidences given, will obſerve that many of the Witneſſes were at a great Diſtance from the *Rupert*, even by their own account;

* *Anthony Pinncau* of the *Namur*

account; in which ſome Perſons in one and the ſame * Ship differ: And I beg leave to obſerve, that ſome of the Witneſſes for the Crown have not only contradicted the Evidence given by others, but have been inconſiſtent with themſelves. One † Gentleman has told the Court, that he could not ſay any thing in particular of the *Rupert*; but at the ſame Time informed them, that ſhe did not bear down, and was always to Windward of the *Namur* and *Marlborough*. Another ſays, the *Rupert* was not in a Line, yet acknowledges he could not diſtinguiſh the *Rupert*; and gives for Reaſon, that he was three Miles diſtant. Theſe two Gentlemen were in the ſame Ship. One ‡ Witneſs has told this Court, that, half an Hour after the *Marlborough*'s Maſts were gone, the *Rupert* was to Windward of the Line; yet allowed, at the ſame Time, ſhe was rather within Point-blank of the Enemy. The Court will determine how conſiſtent is this Evidence; for if he admits the *Rupert* within Point-blank, yet to Windward of the Line, the Enemy muſt alſo have been conſiderably to Windward of their Line, which no one Witneſs has ever hinted. Another ‖ Witneſs is poſitive, that the *Rupert* did not bear down; and places her to Leeward of the *Dorſetſhire*: But this ſame Gentleman neither knows what the *Rupert* was doing, nor at what Diſtance ſhe was from him.

In further Support of this Charge, there are three particular Inſtances inſiſted upon, as a neglect of Duty in me; or as the Effects of my Puſilanimity.

The Firſt is, That I did not engage the *Hercules*; the Second, That I did not bear down to the five ſternmoſt Ships of the Enemy; the Third, That I ſuffered thoſe Ships to paſs me.

As to the firſt of theſe ſuppoſed Facts, it is certain two § Witneſſes for the Crown have ſworn, that I might have engaged the *Hercules*; but I beg Leave to ſay, that theſe Gentlemen ſeem to be inconſiſtent in their Evidence, as they admit I muſt have paſſed the *Eſſex* and *Dorſetſhire*; but the Poſſibility of my engaging the *Hercules* is not only contradicted by other Witneſſes for the Crown, but even one of theſe very Gentlemen contradicts himſelf; for in almoſt the ſame

* Lieutenant *Kerney*, } Four or Five Miles.
*Romney*.
*John Coultas*, } Three or Four Miles.

† Lieutenant *Bellamy* of the *Torbay*, diſtant Three Miles.

‡ Captain *Knowler*. ‖ *John Baptiſta*. § Lieutenant *Gower*, and Lieutenant *Peyton*.

ſame Breath he has ſworn, that if the *Rupert* had borne down in a Line with the Admiral, there had been no Ships for her to engage; which latter Teſtimony is coroborated by nine † other Witneſſes on the ſame Side, who all acknowledge that the *Rupert* could not engage any Ship of the Enemy till their five ſternmoſt Ships came up; one of theſe ‖ Witneſſes ſays, there was no Space for the *Rupert* between the *Dorſetſhire* and *Hercules*; and ‡ another is of Opinion, that had the *Rupert* borne down into the Line, ſhe could not have reached the *Hercules* but at Random Shot.

To make good the ſecond particular Inſtance of my keeping back, or withdrawing from the Fight, there are ſeveral who have roundly charged me, amongſt which *

Some have ſtated the Time in which the *Rupert* might have had the Enemy a-breaſt of her, ſuppoſing her to have borne down in a proper Line, and in her Station; one of § whom has ſworn, the headmoſt of the five *Spaniſh* Ships would have come up in half an Hour, or three Quarters of an Hour. If the *Rupert* had gone down into her Station ſhe would have had the headmoſt of the five *Spaniſh* Ships within Point-blank: The *Rupert* might have been three Quarters of an Hour going down, and then would have had a Ship to engage in half an Hour.

Another (*a*) ſays again, that if the *Rupert* had borne down with the Admiral, and kept her Station, the Enemy would have been a-breaſt of her ſoon after four o'Clock.

Our Admiral bore away about half an Hour paſt Twelve; (*b*) the headmoſt of the Enemy's Ships a-ſtern could not be leſs diſtant at that Time from the *Rupert*, if in her Station, than four Miles. There was then but juſt Wind enough to command a Ship, beſides there was a great Swell: Conſequently in that Time the Enemy's Ships could not have run four Miles. This Gentleman appears to me to be ſomething inconſiſtent in his Evidence, in one Part of which, he ſays the *Rupert* might have bore down, and have had a Ship to engage within Point-blank in three Quarters of an Hour; and in another Part he ſhews, that after ſhe had bore down ſhe muſt have waited half an Hour for a Ship to engage with. That theſe two Witneſſes are contradictory to each other, is, in my Opinion very apparent, as one brings the Enemy a-breaſt

† Gunner *Miller*, Maſter *Meyers*, Captain *Tom*, Captain *Stepney*, *Charles Stuart*, *Iſaac Chapman*, *Benjamin Jenkins*, Captain *Gaſcoigne*, Lieutenant *Gower*. ‖ Captain *Gaſcoigne*, ‡ Maſter *Meyers*, * Lieutenant *Turner*, § Lieutenant *Gower*, (*a*) Maſter *Moor*, (*b*) Lieutenant *Gower*.

breaſt of the *Rupert* in three Quarters of an Hour, and the other allows at leaſt three Hours and a half for their getting up to her; it is, as I have already ſaid, well known, that our Admiral bore away about half an Hour paſt Twelve, and this Gentleman ſays, that the Enemy would have been abreaſt of the *Rupert* ſoon after Four.

That it would have been imprudent for the *Rupert* to have gone nearer than it has been proved ſhe did, I have the Teſtimony of five of the Crown § Witneſſes, who all agree, that the five ſternmoſt Ships of the Enemy might have fetched, if not weathered the *Rupert*, and ‖ one of theſe is of Opinion, that ſuch an Attempt could have been of no Uſe to his Majeſty's Service, for he told the Court that neither the *Rupert* nor the *Royal Oak* together could have ſtopped theſe ſternmoſt Ships of the Enemy.

The Witneſſes for the Crown have left me very little to ſay upon the third particular Inſtance brought to ſupport the firſt Head of my Charge, which is, the five *Spaniſh* Ships having paſſed the *Rupert*, one of the † Witneſſes to this Point, the Court has doubtleſs obſerved, retracted what he had firſt ſaid, to wit, that all the five *Spaniſh* Ships had paſſed me, afterwards reduced the five to one or two, and laſtly he could not be poſitive to any.-----Another ‡ does not directly ſay that any paſſed me, his Evidence is, there might be one or two; but on the other Hand, there are ſeven Witneſſes on the Crown Side who are poſitive, that none of theſe Ships paſſed me, and one believes they did not: Wherefore I reſt this Point upon their Evidence, and that which has been given in by the Witneſſes I have called for the Juſtification of my Conduct.

To ſupport the ſecond Head of my Charge, a great many Witneſſes have ſworn me out of Point-blank, and my Notes, if I have taken them juſtly, (if not, the Court will rectify me, as my Judges, I deem my Council) furniſh me but with one * Gentleman on the Crown Side, who gave his Opinion, upon his Oath, that I was rather within Point-blank after the *Marlborough* had loſt her Maſt: 'Tis true, another ¶ Gentleman ſwears the *Rupert* was not within Point-blank, and a third (*a*) Perſon ſwears, that the *Rupert* began to engage at three Miles Diſtance: I mention this Difference of Opinion to ſhew how difficult it is to make a certain Judgment, at even ſo ſmall a Diſtance as a Mile, (for theſe Witneſſes were not



§ Captain *Neucella*, Lieutenant *Palliſier*, Lieutenant *Peyton*, Lieutenant *Paterſon*, Maſter *Moor*. ‖ Lieutenant *Palliſier*. † Captain *Neucella*. ‡ Lieutenant *Palliſier*. * Captain *Knowler*. ¶ Captain *Neucella* (*a*) *Anthony Pinneau*.

farther off from the *Rupert*,) tho' the Court muſt have obſerved, that ſeveral who have appeared for the Crown, have ſworn very poſitively and very circumſtantially at Diſtances, from two to ſix or ſeven Miles: One ‖ Gentleman cannot be poſitive whether the *Rupert* was, or was not within Point-blank; he, however, admits theſe five *Spaniſh* Ships were crippled, but then he took care to inform the Court that the *Cambridge* was alſo engaged with them, as well as the *Rupert* and *Royal-Oak*.

Another * Gentleman ſwears to the Enemy's being out of Point-blank when they fired upon the *Rupert*; yet admits that their Shot made an Impreſſion in the Hull of the *Eſſex*, at half a Mile greater Diſtance.

One † Gentleman owns himſelf three Miles diſtant from the *Britiſh* Ships aſtern, and believes none of the four within a Diſtance to do Execution, as he ſaw their Shot fall into the Water.——At the ſame, a greater, and even at twice the Diſtance of three Miles, ‡ other Witneſſes could perceive the *Rupert* was not near enough to do Execution.

As the Court has, I obſerved, carefully taken Notes of every reſpective Evidence given, I will take up no more of your Time upon this Head, till I ſhall come to my own Witneſſes; but ſubmit what I have now obſerved to your Animadverſion: And I do not doubt but you will, with great Equity, judge whether or not, it is probable, that Men, at ſuch different and great Diſtances, can poſitively determine upon the Poſition of a Ship, its Diſtance from another, and its being within or out of Point-blank Shot. Gentlemen at the neareſt Diſtance have given their Sentiments with Diffidence.

I beg Leave, having gone through the four Articles of my Charge, to ſay a Word or two with regard to the *Royal Oak* being always to Leeward of, and hailing the *Rupert* to aſſiſt her: Theſe two Circumſtances were, in a manner, the only Defence that was made for the *Royal Oak*; and ſhe was to be cleared by making a Victim of the *Rupert*. I do not, in the leaſt, doubt, but the Court has remarked, that Captain *Williams* himſelf, when upon his Trial, did not (as I am informed) ſay one Syllable of his having hailed the *Rupert*, and that his Witneſſes could not fix the Time of this imaginary Hailing. The Witneſſes, who have appeared in behalf of the *Rupert*, have proved the Circumſtance of my being in the Gallery impoſſible, and not one of my Men upon

‖ Captain *Stepney*. * Lieutenant *Palliſer*. † Lieutenant *Wells*.
‡ *John Pope*, } Diſtance four Miles
*John Founds*, } Diſtance five or ſix Miles.

upon the Quarter-Deck ever miſſed me, from the Beginning to the End of the Engagement. The Maſter, and ſeveral of my Witneſſes, have proved, that he hailed the *Royal Oak* by my Order, and that ſhe was then to Windward, and never to Leeward of the *Rupert* that whole Day. That the *Royal Oak* got her Foretack on board, and run upon my Weather-Beam, has been proved by many; and my Firſt Lieutenant, at that Time, ran upon the Quarter-Deck, and obſerved it to me and others, as being a remarkable Circumſtance. I find myſelf under an indiſpenſible Neceſſity of ſaying, tho' with great Reluctance, that the Court has been amuſed not only in the above Particulars, but with a fictitious Account of the *Royal Oak* having engaged a ſingle Ship for the Space of an Hour: I would readily join Iſſue, and ſet my Life on this ſingle Point.

If any conſcientious Man in the whole Center-Diviſion (the *Royal Oak* excepted) will give his Oath, that he ſaw the *Royal Oak* engaged as above, I will acknowledge that I merit not only Death, but Infamy. None on board the *Rupert* ever ſaw, not a Witneſs on Behalf of the Crown, from other Ships, who were examined to this Particular, knew a Tittle of the *Royal Oak*'s engaging a ſingle Ship: And the Court, no doubt, obſerved, that not one of the *Royal Oak*'s Men could give an Account what became of her, after ſhe had been ſo engaged with the *Royal Oak*; notwithſtanding they were cloſely examined by the Preſident, and other Members of the Court. Theſe are ſtrong Circumſtances to confirm what I have now aſſerted; and the Witneſſes on my Behalf have ſworn in Contradiction to this fabulous Account.

As a farther Proof that the *Royal Oak* was to Windward of the *Rupert*, many Gentlemen of Character have informed you, upon their Oaths, that a Shot from the Enemy went over the *Rupert*, and cut the Stopper of her beſt Bower-Anchor on board the *Royal Oak*.

I beg Leave to ſpeak to ſome incidental Circumſtances, which ſeemingly make againſt me: One is, with regard to the few Men wounded, and none being killed on board the *Rupert*. I hope, Sir, that a Mercy from Heaven will not be conſtrued to my Diſadvantage: Hiſtory furniſhes many Examples of Battles fought, both by Land and Sea, which mentions Thouſands killed on the one Side, and very few on the Side of the Conqueror. I gave you, in Evidence of this Inequality, an Action with the *Vendome*; Captain *Hawke* with the *Podere*; Captain *Watſon* in the *Dragon*; Lord *George Graham* on the Coaſt of *Flanders*; and this has alſo been allowed to have been the Caſe of ſome of the Members of this Court,

Another Circumſtance is the Accident of my Spritſail being fired by the Wadding of the *Eſſex*; whence I apprehend it may be inferred, that I muſt have been very near that Ship, when ſhe was at two great a Diſtance from the Enemy: But if the Difference of Times is diſtinguiſhed, no ſuch Inference can be drawn; for the firing my Spritſail happened when Admiral *Matthews* bore down to my Aſſiſtance, and to attack the *Real*, and the reſt of the Ships, the *Eſſex* then following him; and on his hawling the Signal for the Line of Battle down, and the Signal for engaging, and making the Signal for leaving off Chace, I hawled my Wind to give room for the Admiral to paſs me, which brought me cloſe to the *Eſſex*; and on her firing at the Enemy, as they opened a-ſtern of the Admiral, and at the very Time of my Wearing under the *Dorſetſhire*'s Stern, the Wadding of one of her Guns flew into my Spritſail, and ſet it on Fire.

The Court has done the honour to my Officers to allow them Men of Credit: It is a Character they juſtly deſerve. They have ever been eſteemed Gentlemen of great Probity; and I am in myſelf thoroughly ſatisfied, they are incapable of any Action which could make them forfeit that Character.

Theſe Gentlemen, who have appeared in my Behalf, have not only proved my Impatience to engage the Enemy, but that I did all that was poſſible for me to get within a proper Diſtance; that I did not engage before I had, by Experiment, found I was near enough to do Execution; tho' the Enemy's Shot went over, and even damaged the *Rupert*; and that, when I was once engaged, I never hawled off from the Enemy, but endeavoured ſtill to near them, till the Admiral called me off by his Signal, and afterwards led me off from the Engagement.

Nine of the Witneſſes for the Crown agree, with thoſe who appeared for me, that I had no Enemy to engage, till the five Ships a-ſtern came up; and they, by ſaying the Enemy might have weathered or fetched the *Rupert*, ſhew that I engaged as near as I poſſibly could. That I was near enough to the Enemy to annoy them is clear, from the Damage the *Rupert* received, and the Men which you have heard ſhe killed on board the Enemy's two headmoſt Ships.

With relation to the Witneſſes on my Behalf, I ſhall only add, that they have either flatly contradicted all that is contained in the Charge the Crown has brought againſt me, or ſhewn the Impoſſibility of my having been able to do, according to Diſcipline, what my not doing has been called a Neglect of Duty, and Infringment of his Majeſty's Fighting Inſtructions; and that theſe Witneſſes have not only been

conſiſtent

conſiſtent with themſelves, but with one another: And, I am ſure, none will ſay the Court has not taken indefatigable Pains to ſift out the Truth, that they might be enabled to do Juſtice between the King and the Subject: Whereas, on the other hand, on the Side of the Crown; ſome of the Witneſſes have not only been inconſiſtent, in their reſpective Evidence, but have flatly contradicted one another.

It has been ſaid I did not fight at all; and again, that I fought all Day:---- That I was, and was not, in Point-blank Shot; nay, that I was three Miles off:---That I might have driven the Enemy out of the Line, had I born down with the Admiral; but if I had ſo done, I ſhould have had no Enemy to engage with:---That I could have ſtopt the five *Spaniſh* Ships a-ſtern; but that the *Rupert*, and another Ship of greater Force to aſſiſt her, would not, together, have been ſufficient to have ſtopt them:----That I could have engaged the *Hercules*; and that there was no Space for the *Rupert* between that Ship of the Enemy's and the *Dorſetſhire*; and if I had borne down in the Line, I could not have reached the *Hercules*, but at Random Shot:---That I could have borne down, to have the Enemy a-breaſt, in three Quarters of an Hour; but it would have been three Hours and a half before the Enemy could have come up with the *Rupert*:---That I was, and was not, near enough the Enemy to do Execution:---That I ſprang my Luff, and hawled off from the Enemy; and that I continued firing upon them, till they bore away out of Gun-ſhot:---That I did, and did not, engage the ſternmoſt Ships of the Enemy:---That I might have gone nearer to the Enemy; but if I had, they would have ſhut me out:---That I ſuffered, and did not ſuffer, the Enemy's Ships to paſs me.

The Court will, by their own Notes, be ſatisfied I have exaggerated nothing in the ſumming up this contradictory Evidence; that I have adhered ſtrictly to the Truth, and have advanced nothing but what was given in Evidence on the Crown Side.

Your own Notes will give you this farther Information, that there have been examined againſt me Fifty-four Witneſſes; Twenty-eightof whichwere from the *Neptune*, *Torbay*, *Oxford*, *Ruſſel*, *Buckingham*, and *Romney*, which were from four to ſeven Miles diſtant from me. Sixteen were from the *Namur*, *Marlborough*, *Eſſex*, *Somerſet*, and *Norfolk*, which when I was engaged were all at a great Diſtance from me; the reſt were one from the Fireſhip, and one from the *Dorſetſhire*, which knew but little of me; one from the *Cambridge*, who ſeemed to contradict every Body; one from

from the *Winchelſea*, who ſpoke very uncertainly, and the other ſix were all from the *Royal Oak*.

I ſhall tax none of them with Malevolence and premeditated Deſign to make me appear guilty; many Months have eſcaped ſince that fatal Day of the Engagement, and Gentlemens Memories may have failed them: I hope, and will believe, that none who has appeared againſt me could be wicked enough to come here with prepenſed Murder in his Heart; and I have the Charity to attribute theſe Contradictions to the Difference of Judgement, in which every Man may be right in his own Opinion and Conſcience; but where theſe are diametricaly oppoſite, they cannot be both true in fact. Truth has but one Story, and it is remarkable that the Witneſſes for the *Rupert* agreed in every thing eſſential.

Having done with the Obſervations which ſeemed neceſſary for me to make upon the Evidence before the Court, and relative to my Caſe, I will, Sir, only beg ſo much more of your Time, as may ſerve to cloſe my Defence, by aſſuring you, that as I have looked with great Satisfaction upon the Trouble which ſome Members of this Honourable Court have been pleaſed to give themſelves in the Courſe of my Trial, by taking of Notes of the Evidence for the Crown, and for myſelf; and that, as I am fully perſwaded the whole Court will conſpire to the diſtinguiſhing and ſeparating the direct, clear, and well-ſupported Parts of that Evidence, from thoſe which are either doubtful, inconſiſtent or contradictory in themſelves; ſo I promiſe myſelf, that the Matters in Queſtion between the Crown and me, will then receive a well-founded, juſt and equitable Determination; or in other Words, ſuch as will be ſuitable to that Candour, that Impartiality, that Honour, that Dignity, which ever ought, and which, I hope, ever will attend the Proceedings of a *Britiſh* Naval Court-Martial.

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AT a Court-Martial aſſembled on board his Majeſty's Ship the *London* at *Chatham*, on the 23d of *September*, 1745. and continued to be held by Adjournment on the 18th, 21ſt, 22d, 23d, 24th, 25th, 28th, 29th, and 31ſt of *October*, and 1ſt, 4th, 5th, 6th, and 7th of *November* 1745.

PRESENT

Sir *Chaloner Ogle*, Admiral of the Blue, and Commander in Chief of his Majeſty's Ships in the Rivers *Thames* and *Medway*, and at the *Buoy* of the *Nore*. Preſident.

*Perry Mayne*, Eſq; Rear Admiral of the Blue.

*Thomas Smith*, Eſq; Captains.

| Captains. | Captains. | Captains. |
|---|---|---|
| *Wm. Parry* | *Rob. Erſkine*, | *Charles Colby*, |
| *James Rentone*, | *Char. Catford*, | *Joſeph Hamar*, |
| *Tho. Limeburner.* | *Hon. A. Stuart*, | *Smith Callis*, |
| *Sir Wm. Hewet*, | *Wm. Chambers*, | *John Pitman*, |
| *Sheldrake Laton*, | *Robert Allen*, | *Edw. Sprague*, |
| *Sir Cha. Molloy*, | *Tho. Frankland*, | *John Orme*, |

All duly ſworn according to Act of Parliament.

The Court (in Purſuance of an Order from the Right Honourable the Lords of the Admiralty, to Sir *Chaloner Ogle*, dated the 11th of *September* 1745) preceeded to enquire into the Conduct of Capt. *John Ambroſe*, who commanded his Majeſty's Ship the *Rupert*, at the Time of the late Engagement between his Majeſty's *Fleet* and the Combind Fleets of *France* and *Spain*, off *Toulon*; and he was tried for the ſame upon a Charge prepared againſt him by the Proſecutors in Behalf of the Crown, and laid before the Court by the Judge Advocate: And the Court having ſtrictly examined all the Witneſſes produced, as well in Support of the Charge, as in the Behalf of the Party accuſed, and having thoroughly conſidered their Evidence, it appeared to the Court thereby.

That quickly after the *Namur* and *Marlborough* bore ſhort down upon the *Real*, the *Rupert* bore away alſo, and continued to bear down for a little Time after the *Namur* and *Marlborough* had brought up, and began to engage, and the *Rupert* alſo brought up: That when ſhe ſo brought up, there was not any Ship of the Enemy a-breaſt of her, there being a large Opening between the *Hercules* (the *Real*'s Second a-ſtern) and five other *Spaniſh* Ships that were coming up: That ſhe afterwards bore down nearer to the Enemy's Line, and a ſhort Time before the *Marlborough*'s Maſts fell, began to engage the headmoſt of the five *Spaniſh* Ships coming up, and continued to engage her and the ſecond of thoſe Ships, till after the *Namur* wore; and then the *Rupert* hauled off, paſs'd to the Leeward of the *Marlborough*, (which was then towing away) and wore round the next Ship, a-ſtern of the *Dorſetſhire*, (which was then the next Ship a-ſtern of the *Namur*) and fired at the Enemy in paſſing them on the contrary Tack.

That when the *Rupert* firſt brought up, ſhe was not in a Line with the *Namur* and *Malborough*, but that ſhe was in a Line, or as far to Leeward as were thoſe two Ships began to engage. During the greateſt Part of the Time ſhe was engaged on the Larboard Tack, though not within Point-blank Shot, nor within a Diſtance to do proper Execution, during any Part of the Time ſhe was engaged on that Tack.

And

And the Court are of Opinion, upon the whole, That Capt. *Ambroſe* had it in his Power to have engaged cloſer (upon the Larboard Tack) with the five Ships of the Enemy coming up, without going to Leeward of the Line: And are alſo unanimouſly of Opinion, that he did not do his utmoſt to come into the Fight, to engage, take, fire, kill, and endamage his Majeſty's Enemies, agreeable to the general Fighting Inſtructions and Diſcipline of the Navy, and conſidering his ſituation from the Time the Admiral and *Marlborough* firſt brought up in a Line to engage, till the Time the Admiral wore in the Evening, ſuitable to the Honour of his Majeſty's Flag, and becoming the Captain of a *Britiſh* Man of War: And that he therein failed in his Duty, and is guilty of Part of the Charge againſt him; but as to his not going to the Aſſiſtance and Relief of the *Marlborough*, and not covering or conducting the Fireſhip, the Court are of Opinion, that he ought not to have ſhot a-head to cloſe with the *Marlborough*, either before or after her Maſts were gone, or to have covered or conducted the Fireſhip, without Orders by Signal, or otherwiſe, from the Admiral.

For his Failure in his Duty, as aforementioned, the Court do unanimouſly agree, that Capt. *Ambroſe* falls under Part of the twelfth Article of an Act of 13 *Cha.* II. for eſtabliſhing Articles and Orders for the regulating, and better Government of his Majeſty's Navies, Ships of War, and Forces by Sea: But in regard he has, both before and ſince the Action, borne the character of a diligent and vigilant Officer; and that his Failure in the Action ſeems to have ariſen from Miſtake in Judgment; and that he has already ſuffered Confinement for a conſiderable Time; the Court do only adjudge him, the ſaid Captain *John Ambroſe*, to be caſhiered from ſerving in the Royal Navy during his Majeſty's Pleaſure, and to be mulcted one Year's perſonal Pay for the *Rupert*: And he is hereby accordingly adjudged to be caſhiered from ſerving in the Royal Navy during his Majeſty's Pleaſure; and to be mulcted one Year's perſonal Pay for the *Rupert*, to be applied to the Uſe of the Cheſt at *Chatham*.

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| *C. Ogle*, | *J. Pittiman*, | *Rob. Allen*, |
| *P. Mayne*, | *Cha. Catford*, | *Tho. Limburner*, |
| *Thomas Smith*, | *E. Sprague*, | *Tho. Frankland*, |
| *Wm. Parry*, | *Arch. Stuart*, | *Will. Hewett*, |
| *C. Molloy*, | *John Orme*, | *Cha. Colby*, |
| *Smith Callis*, | *Will. Chambers*, | *Sheldrake Latan*, |
| *R. Erſkine*, | *Ja. Rentone*, | *Joſ. Hamar*. |

*Ch. Fearne*, Jud. Adv.

*F I N I S.*